IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRIT No. 109 of 1993

SHYAM SUNDER HATILLA
V/S
STATE & ORS

Mr. MUKESH VYAS, for the appellant / petitioner

Mr. JP JOSHI, for the respondent

Date of Order : 24.5.2006

HON'BLE SHRI N P GUPTA,J.

ORDER

This petition has been filed by the petitioner, seeking a direction to the respondents to issue selection list of Scheduled Caste candidates, and if the petitioner comes within merit in the selection list, then for a direction to provide appointment to the petitioner, on the post of Drawing Teacher Gr. I, with all consequential benefits.

The allegations of the petitioner are, that he belongs to Scheduled Caste category (SC), and possesses the academic qualification of Graduation. The petitioner also claims to be physically handicapped. For this he has produced Disability Certificate Annexure-4. With this background it is alleged, that the respondent no.3 Rajasthan Public Service Commission (R.P.S.C.) issued

advertisement inviting application for recruitment on the post of Teacher Gr.I, in various subjects, including Drawing, in July, 1991 being Annexure-5, whereby 12 vacancies were advertised, out of which two were reserved for S.C., and two were reserved for S.T. Candidates. The petitioner being eligible, applied, and also appeared in the written test, and successfully passed it. The copy of the result has been produced as Annexure-7. The allegation of the petitioner is, that vide letter dt. 5.9.1992, the petitioner was called for interview, which was held on 7.10.1992, wherein the petitioner appeared along with all testimonials. The allegation then is, that the petitioner is presently working as Teacher Gr. III since December, 1985, and according to the petitioner it is apparently clear that the petitioner is possessing all requisite qualification to be appointed. However, after completion of interview the R.P.S.C. has published the select list of general candidates, and Scheduled Tribe candidates only, and no result of S.C. candidates has been declared, and that, it is best known to R.P.S.C., as to why it has not issued selection list of S.C. category candidates. With these averments, the aforesaid reliefs have been claimed. In substance, the grievance is, that no selection list has been issued by the R.P.S.C. regarding S.C. category candidates.

A reply has been filed by the R.P.S.C., contending inter alia, that the petitioner did not apply as physical handicapped candidate, nor there was any such vacancy reserved in that category. Then submitting factual aspect it was pleaded that in response to the advertisement 221 applications were received, including that of the petitioner, and the screening test was conducted for short listing, wherein the petitioner cleared, and was called for interview. Then, regarding interview, it was pleaded that after holding interview, the Commission issued the select list on 8.10.1992, by which nine candidates were found suitable, and were selected, and that the petitioner was not found suitable by the Commission, therefore, his name could not be included in the select list. It was pleaded that the contention, of list of selected candidates for S.C. having not been declared, is misconceived. It was maintained, that the list of all selected candidates, which have been found suitable, was declared, and the names of the persons who were not found suitable, have not been included. It was further pleaded, that the petitioner was informed about his non selection, vide communication dt. 24.10.1992, copy whereof has been produced as Annexure R/1. Then, it was pleaded that the candidature of the petitioner was considered against the reserve vacancy, reserved for S.C. candidates, and he was not found suitable even against that vacancy. It was pleaded that the petitioner has not

been denied selection on the ground of his not possessing requisite qualification, rather he has not been found suitable on his merit, and therefore, he has not been selected.

It may be noticed here, that the writ petition has been filed on 5.1.1993, i.e. much after Annexure R/1, and in the writ the fact of the petitioner having been informed of his non selection, has not been disclosed. That apart, even after filing of the reply, factum of issuance of Annexure R/1 has not been controverted on the side of the petitioner. Be that as it may.

From the above narration of facts it is clear, that the basic factual averment of the petitioner, about the respondent no.3 having not issued selection list of S.C. Candidates does not stand, inasmuch as, vide Annexure R/1 the petitioner was conveyed, that he has not been selected.

That apart, after admission, when the writ petition came up for hearing on 4.1.2000, the counsel for R.P.S.C. was directed to produce the record of selection, along with an additional affidavit, setting out the procedure followed in the concerned selection, the criteria fixed for suitability etc. In compliance of this order, an

additional affidavit had been filed on 13.3.2000 itself, giving out in detail, that out of the total number of applications, 13 applications were received from S.C. category candidates, and three were received from S.T. category candidates. Written examination to short list the candidates was held in Feb., 1992, seven candidates appeared therein from S.C., and three from physically handicapped category, and since the number of candidates from S.T. were not large, they were exempted from the written examination. After declaration of result, five candidates were invited for interview from S.C. Category, and two from S.T. category. Then, in para-8 it was pleaded, that in the interview, the commission adopted the criteria for holding recruitment through interview alone as per procedure laid down by the Full Commission in its meeting dated 9th and 10th April, 1980. In the said criteria the procedure for holding the selection through interview alone was laid down, and according to the said criteria, a candidate, in order to be suitable for the post, was required to secure minimum 50% marks in the interview, and any candidate securing less than 50% marks was unsuitable, for the post. It was then pleaded in para-9, that applying the aforesaid criteria in the said selection, the candidates were interviewed by the Commission, and those candidates, who secured 50% or more marks were found suitable, and the candidates securing less than 50% marks

were found unsuitable. It was then pleaded, that none of the candidates belonging to Scheduled Caste category were found suitable, as all the four candidates, interviewed in the said selection, secured less than 50 per cent marks, and one candidate from S.T. category was found suitable, and out of 27 general category students interviewed, only 8 candidates were able to secure 50 per cent or more marks. Thus, against the 12 posts advertised, only 9 candidates could be selected. Thereafter the matter came up on 17.2.2006. On which date it was noticed, that in the additional affidavit, the Commission has not stated, with regard to the criteria adopted by the respondent, and therefore, the Commission was directed to file affidavit, stating therein, the criteria formulated, and adopted, by the respondents, for determining the suitability of the candidates. Accordingly, yet another additional affidavit has been filed on 23.5.2006. It is maintained, that the selections were held in accordance with this criteria, with all fairness. It was submitted by Mr. Joshi that there is not even the allegation on the side of the petitioner, that in selection exercise there was anything unfair, or that, there was any prejudice, or bias, against the petitioner, on the part of the persons adjudging the merit of the petitioner, and in absence of any such averment, no interference in selection exercise is required to be made.

I have considered the submissions, and find, that vide Annexure R/1 the petitioner had already been conveyed, about his having not been selected. Then, the respondent Commission has adopted clear criteria for adjudging the suitability of the candidates for selection, and since the petitioner failed to secure cut off percentage of marks, he was not selected. Then, in the entire writ petition, there is no allegation, or averment, about their being any unfairness in the selection exercise, nor any other such ground has been raised, which may enable me to interfere with the conclusions arrived at by the Selection Board.

In that view of the matter, I do not find any force in the writ petition. The same is, therefore, dismissed. Parties shall bear their own costs.

(N P GUPTA),J.

/Sushil/